

KARIN J. IMMERGUT, OSB #96314
United States Attorney
District of Oregon
1000 S.W. Third Avenue, Suite 600
Portland, Oregon 97204-2902

FILED *09 MAR 02 13:34 USDC-ORE

KARI D. LARSON
Trial Attorneys, Tax Division
U.S. Department of Justice
P.O. Box 683
Ben Franklin Station
Washington, D.C. 20044-0683
Telephone: (202) 307-6572
Facsimile: (202) 307-0054
Kari.D.Larson@usdoj.gov

Attorneys for the United States

**IN THE UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF OREGON**

FLOYD W. BEAM and ELAINE M. BEAM,)

Plaintiffs and Counterdefendants,)

v.)

Civil No. 07-6035-TC

~~PROPOSED~~ ORDER FOR JUDICIAL

UNITED STATES GOVERNMENT, a.k.a.) SALE

UNITED STATES OF AMERICA, a Federal)

Corporation, INTERNAL REVENUE)

SERVICE OVERSIGHT BOARD, a.k.a. the)

INTERNAL REVENUE SERVICE,)

DEPARTMENT OF THE TREASURY, a.k.a.)

UNITED STATES TREASURY, and the)

SOCIAL SECURITY ADMINISTRATION,)

Defendants, Counterclaimants and Third-Party)

Plaintiffs,)

v.)

ERIC BEAM, STATE OF OREGON, and)

FLOYD W. BEAM and ELAINE M. BEAM as)

TRUSTEES OF SUNBEAM INVESTMENT)

COMPANY,)

Third-Party Defendants.)

A final judgment was entered by this Court in the above-entitled action, on

_____, ordering that the United States' federal tax liens be foreclosed and that the subject property, described below, be sold pursuant to 28 U.S.C. § 2001.

The properties that are the subject of this suit are commonly known as:

1. 90398 Marcola Road, Springfield, Oregon 97478, which bears the following legal description:

Lot 2, Block 2, Mountain Shadows, as platted and recorded in Volume 50, Page 6, Lane County Oregon Plat Records, in Lane County, Oregon.

2. 340 Q Street, Springfield, Oregon 97477, which bears the following legal description:

Beginning at a point 1164.3 feet West and 30 feet North of the Southeast corner of Jacob Halstead and wife Donation Land Claim No. 47, Section 26, Township 17 South, Range 3 West of the Willamette Meridian; thence West 90.5 feet; thence North 299.61 feet; thence East 90.5 feet; thence South 299.61 feet to the North line of Mohawk County Road ("Q" Street), being Point of Beginning, in Lane County, Oregon.

3. 17089 Pasadena Road, Bend, Oregon 97707, which bears the following legal description:

Lot 27, Block 58, Deschutes River Recreation Homesites, Inc., Unit 9, Part II, Deschutes, Oregon.

4. 17083 Pasadena Road, Bend, Oregon 97707, which bears the following legal description:

Lot 28, Block 58, Deschutes River Recreation Homesites, Inc., Unit 9, Part II, Deschutes County, Oregon.

(collectively, "real properties subject of this action").

Accordingly, it is ORDERED as follows:

1. The United States Marshal for the District of Oregon, his or her representative, or an

Internal Revenue Service Property Appraisal and Liquidation Specialist ("PALS"), is authorized and directed under 28 U.S.C. §§ 2001 and 2002 to offer for public sale and to sell each of the real properties subject of this action. The United States may choose either the United States Marshal or a PALS to carry out the sales under this order and shall make the arrangements for any sale as set forth in this Order.

2. The Marshal, his or her representative, or a PALS representative is authorized to have free access to the real properties subject of this action and to take all actions necessary to preserve the real properties subject of this action, including, but not limited to, retaining a locksmith or other person to change or install locks or other security devices on any part of the property, until the deed to the real properties subject of this action is delivered to the ultimate purchaser.

3. The terms and conditions of the sales are as follows:

a. the sales of the real properties subject of this action shall be free and clear of the interests of Floyd W. Beam, the Estate of Floyd W. Beam, Elaine M. Beam, Eric Beam, the State of Oregon, and Sunbeam Investment Company.

b. the sales shall be subject to building lines, if established, all laws, ordinances, and governmental regulations (including building and zoning ordinances) affecting the real properties subject of this action, and easements and restrictions of record, if any;

c. the sales shall be held at the courthouse of the county or city in which the real properties subject of this action are located, on the premises of the real properties subject of this action, or at any other place in accordance with the provisions of 28 U.S.C. §§ 2001 and 2002;

d. the date and time for the sales are to be announced by the United States

Marshal, his/her representative, or a PALS;

e. notice of the sales shall be published once a week for at least four consecutive weeks before the sale in at least one newspaper regularly issued and of general circulation in the County in which the real properties are situated, and, at the discretion of the Marshal, his or her representative, or a PALS, by any other notice deemed appropriate. The notice shall contain a description of the real properties subject of this action and shall contain the terms and conditions of sale in this order of sale;

f. The minimum bid for each property will be set by the Internal Revenue Service. If the minimum bid is not met or exceeded, the Marshal, his or her representative, or a PALS may, without further permission of this Court, and under the terms and conditions in this order of sale, hold a new public sale, if necessary, and reduce the minimum bid or sell to the second highest bidder;

g. the successful bidder(s) shall be required to deposit at the time of the same with the Marshal, his/her representative, or a PALS a minimum of ten percent of the bid, with the deposit to be made by certified or cashier's check or cash payable to the United States District Court for the District of Oregon.

Before being permitted to bid at the sale, bidders shall display to the Marshal, his/her representative, or a PALS proof that they are able to comply with this requirement. No bids will be received from any person(s) who have not presented proof that, if they are the successful bidders(s), they can make the deposit required by this order of sale;

h. the balance of the purchase price for each of the sales is to be paid to the United States Marshall or a PALS (whichever person is conducting the sale) within 20 days after

the date the bid is accepted, by a certified or cashier's check payable to the United States District Court for the District of Oregon. If the bidder fails to fulfill this requirement, the deposit shall be forfeited and shall be applied to cover the expenses of the sale, including commissions due under 28 U.S.C. § 1921(c), with any amount remaining to be applied to as described herein, below.

The realty shall be again offered for sale under the terms and conditions of this order of sale.

The United States may bid as a credit against its judgment without tender of cash;

i. the sale shall be subject to confirmation by this Court. The Marshal or a PALS shall file a report of sale with the Court, together with a proposed order of confirmation of sale and proposed deed, within 20 days from the date of receipt of the balance of the purchase price;

j. on confirmation of the sale, the Marshal or PALS shall execute and deliver a deed of judicial sale conveying the property to the purchaser;

k. on confirmation of the sale, all interests in, liens against, or claims to, the property that are held or asserted by all parties to this action are discharged and extinguished;

l. on confirmation of the sale, the recorder of deeds, for Deschutes County, Oregon and Lane County, Oregon shall cause transfer of the real properties subject of this action to be reflected upon that county's register of title; and

m. the sale is ordered pursuant to 28 U.S.C. § 2001, and is made without right of redemption.

4. Until the properties are sold, Elaine M. Beam shall take all reasonable steps necessary to preserve the real properties subject of this action (including all buildings, improvements, fixtures and appurtenances on the real properties of this action) in its current condition including, without limitation, maintaining a fire and casualty insurance policy on the real properties subject

of this action. She shall neither commit waste against the real properties subject of this action nor cause or permit anyone else to do so. She shall neither do anything that tends to reduce the value or marketability of the real properties subject of this action nor cause or permit anyone else to do so. Mrs. Beam shall not record any instruments, publish any notice, or take any other action (such as running newspaper advertisements or posting signs) that may directly or indirectly tend to adversely affect the value of the real properties subject of this action or that may tend to deter or discourage potential bidders from participating in the public auction, nor shall they cause or permit anyone else to do so.

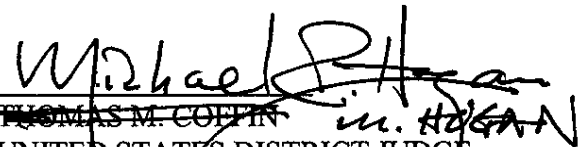
5. All persons occupying the real properties subject of this action shall leave and vacate the real properties subject of this action permanently within 30 days of the date of this Order, each taking with them his or her personal property (but leaving all improvements, buildings, fixtures, and appurtenances to the property). If any person fails or refuses to leave and vacate the real properties subject of this action by the time specified in this Order, the United States Marshal's Office, alone, is authorized to take whatever action it deems appropriate to remove such person from the premises, whether or not the sale of such property is being conducted by a PALS. If any person fails or refuses to remove his or her personal property from the real properties subject of this action by the time specified herein, the personal property remaining on the real properties subject of this action thereafter is deemed forfeited and abandoned, and the United States Marshal's Office is authorized to remove it and to dispose of it in any manner it deems appropriate, including sale, in which case the proceeds of the sale are to be applied first to the expenses of sale and the balance to be paid into the Court for further distribution.

The proceeds arising from the sales are to be paid to the Clerk of this Court and applied

as far as they shall be sufficient to the following items, in the order specified:

1. To the United States Marshal or the PALS (whichever person conducted the sale as arranged by the United States) for the costs of the sale;
2. To all taxes unpaid and matured that are owed to (county, borough or school district) for real property taxes on the property;
3. To the federal income taxes of Floyd W. and Elaine M. Beam for the outstanding income tax liabilities and civil penalty assessments for the years and amounts as set forth in the Court's Order of Judgment Against Floyd W. Beam and Elaine M. Beam, plus all interest and penalties due and owing thereon;
4. To the State of Oregon for any unpaid state income taxes of Floyd W. Beam, the Estate of Floyd W. Beam, and/or Elaine M. Beam, as set forth in the State of Oregon's answer to the United States' counterclaims and third-party claims (Docket Entry # 33); and
5. Any balance remaining after the above payments shall be held by the Clerk until further order of the Court.

Dated this 2nd day of March, 2008.


~~THOMAS M. COFFIN~~ in. HOGAN
UNITED STATES DISTRICT JUDGE

CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that on August 28, 2008, the foregoing [PROPOSED] ORDER FOR JUDICIAL SALE was electronically filed with the Clerk of Court using the CM/ECF system. It is further certified that on this same date, service of the foregoing was made by depositing copies thereof in the United States mail in a postage prepaid envelope addressed to:

Elaine M. Beam
340 Q Street
Springfield, OR 97477

Sunbeam Investment Company
c/o Elaine M. Beam, as Trustees
340 Q Street
Springfield, OR 97477

/s/ Kari D. Larson
KARI D. LARSON
Trial Attorney, Tax Division
U.S. Department of Justice